Case No.	8-12-76440ast
Judge Ala	nn S. Trust
TO WITH	IDRAW
:	100
	Judge Ala

Wayne Miller, being duly sworn, deposes and says:

- 1. I am a creditor in this Chapter 7 bankruptcy. I object to the debtor's application to withdraw its petition. My proof of claim is annexed as exhibit A.
- 2. The debtor has only one asset, I believe. That asset is a commercial piece of real estate, approximately 2 acres, in Ronkonkoma. I brought an action to foreclose a second mortgage upon that real property made by debtor to me to secure the sum of \$40,000 with 12% interest, dated September 18, 2009. I am the owner and holder of the mortgage and note.
- 3. The debtor, by its owner, Dale Javino, consistently lied to me that I would get paid. He bounced a check to me. He collected rent from the tenants but did not pay the taxes, the first mortgage holder or me. He said he was refinancing but never did. He also tried to act as the attorney for the corporation. He filed an application to dismiss the foreclosure action (without an attorney) but the Supreme Court denied that application.

- 4. The Suffolk County Supreme Court granted a judgment of foreclosure to me. The foreclosure auction was scheduled for October 29, 2012.
- 5. The Friday before the auction the debtor tried to get a stay of the auction in the Supreme Court. See letter of Dale Javino annexed as exhibit B. That stay was not granted. The debtor then filed bankruptcy while threatening to file a grievance against my attorney. See letter of Dale Javino annexed as exhibit C.
- 6. Debtor came to the first meeting of creditors without an attorney so my attorney was unable to question the debtor. Debtor did not show up for the second meeting of creditors. Now he says he filed the bankruptcy by mistake.
- 7. Debtor is trying to manipulate the system. I am sure if the bankruptcy was dismissed, then after I rescheduled the foreclosure auction, he would file another bankruptcy petition. He is very good at using the system to prevent the recovery of monies owed by debtor. In fact he tried to avoid me knowing of this application in that he mailed it to me at 700 Lakeland Ave, Bohemia, NY. See envelope annexed as exhibit D. That is not my address nor is it my attorney's address. That address is for Alex Curtis who was the mortgage broker who arranged the mortgage for debtor. I assume debtor hoped I would never get notice of the application. When debtor filed for bankruptcy he knew to send the notice to my attorney's office. Curiously he chose not to do so for this application.
- 8. I do not want the petition dismissed. I want the trustee to collect the rents, sell the property and pay the creditors. The holder of the first mortgage also wants the bankruptcy case to remain open. See fax annexed as exhibit E.
- 9. Debtor filed the bankruptcy. He must accept the consequences of his action. He should not be permitted to continue to play games with the legal

system.

Wayne Miller

Sworn to before me this

January 11, 2013

Notary Public

DAVID P. FALLON

Notary Public, State of New York

Registration #02FA4811663

Qualified In Suffolk County

Commission Expires January 31,

David P. Fallon (5184)
FALLON AND FALLON, LLP
Attorneys for Wayne Miller
53 Main Street
P.O. Box 423
Sayville, NY 11782
(631) 567-0340

To: American Land Acquisition Corp. 1000 Tenth St.
Ronkonkoma, NY 11779

Marc A. Pergament, trustee 400 Garden City Plaza Suite 403 Garden City, NY 11530